

TATE

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

- - -

IN RE: ADAMS GOLF, INC.:

SECURITIES LITIGATION :

X

ORAL DEPOSITION OF EDDIE G. TATE, III

Tuesday, June 27, 2006

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Oral deposition of EDDIE G. TATE, III,  
held at the offices of Fox Rothschild, 1301  
Atlantic Avenue, Atlantic City, New Jersey  
08401, commencing at 9:41 a.m. reported  
by Debra Sapio Lyons, RDR, CRR, CSR and Notary  
Public of the States of New Jersey, New York and  
Maryland.

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Page 86	Page 88
<p>1 in here that I finish it with as saying --  2 here it goes -- from a retailer's  3 standpoint, it's on the second page, one,  4 two, three, paragraphs up, the last  5 sentence, and this really does sum it up,  6 it says, "All too often, Scott, I heard the  7 words, yeah, it's great, but what's in it  8 for me." So we go through and we're having  9 all these promotions, prices, we're  10 stealing Mastercard's tag line, and the  11 retailers are like we don't give a shit.  12 We want this addressed and fixed and you're  13 giving away frigging golf bags. Adams  14 wound up getting sued for the golf bags  15 because of the little trip arm on the  16 lever, they didn't have the copyright or  17 the patent for it, and they copied that and  18 they got sued for it by the manufacturer.  19 So it was just another problem that they  20 had. They weren't addressing any real  21 issues.  22 Q. What was going on in the  23 retail market in the golf industry at the  24 time?</p>	<p>1 A. At the time I would say  2 yes. Again, Adams original Tight Lies was  3 at the tail end of its run. Okay. Orlimar  4 came out with a much more attractive  5 looking product. Personally I always  6 thought Adams' was a better club. Okay?  7 But in this email somewhere -- actually,  8 right below it, it's -- the -- Orlimar was  9 developed more for a low handicap golfer.  10 It was easier to hit for -- for me it would  11 be easy to hit. I don't know your golfing  12 abilities, but it would be more challenging  13 for you to hit. It still had a relatively  14 traditionally shaped head, harder to hit.  15 But they used Ken Venturi who won the 1964  16 U.S. Open. Their infomercial gave a  17 certain amount of credibility because they  18 had a U.S. Open winner presenting it.  19 Their spiff program -- spiffing  20 is when you go inside of a store and say:  21 If you sell X amount of clubs, I'm going to  22 give you \$2.00 per club, \$3.00 per club,  23 whatever it was. We didn't have a spiffing  24 program. So you put spiffing out there and</p>
Page 87	Page 89
<p>1 A. In what respect?  2 Q. What was the market like in  3 November, 1998?  4 A. I think that there was a  5 lot of fluctuation in the market. It  6 wasn't exactly the most stable thing in the  7 world. It wasn't -- I think it's alluded  8 to in here also, that there are a great  9 amount of fluctuations, that to some degree  10 sales might be waning as the market was  11 changing, interest rates were going up, and  12 all these other outside variables perhaps,  13 but, again, perception.  14 Q. On Page Tate 3 at the very  15 top, you say, "Orlimar has had a tremendous  16 effect on our presence within the golf  17 shops. Much of this can be attributed to  18 their infomercial, just as it was ours last  19 year, as well as their spiffing program.  20 Put all these factors together and you'll  21 see why retailers' support for Adams has  22 been so diminished."  23 Was that a true statement at the  24 time?</p>	<p>1 plus the retailers like the -- the Orlimar  2 product, they liked the way it looked, they  3 liked the way it sold, and they didn't have  4 any gray market issues going on with it,  5 that became their "go to" product for  6 fairway sales. And they bounced us pretty  7 bad.  8 Q. Tell me about their  9 spiffing program.  10 A. Adams or Orlimar's?  11 Q. Orlimar's. I don't  12 understand spiffs. How do they work?  13 A. Spiffs -- you have Reed  14 Golf Manufacturer, okay, and you're making  15 golf clubs and you put it inside the  16 marketplace. You come to -- you come to me  17 and you want me to sell your golf clubs,  18 but if I sell ten clubs or whatever else,  19 you're going to tell me I'm going to give  20 you \$3.00 per club if you sell my clubs, so  21 it's a little incentive program internally.  22 Not uncommon within the industry  23 either.  24 Q. In 1998 Orlimar had a spiff</p>

23 (Pages 86 to 89)

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<p>1 program?</p> <p>2 A. Yes.</p> <p>3 Q. And did that spiff program</p> <p>4 cause competition issues for Adams Golf?</p> <p>5 A. The spiff program didn't</p> <p>6 cause competition. The fact was the</p> <p>7 retailers liked their advertising, they</p> <p>8 liked the way the product looked, they</p> <p>9 liked the way the product was received by</p> <p>10 the buying public, and they didn't have any</p> <p>11 gray market issues. The club was not going</p> <p>12 to show up in Costco. They maintained</p> <p>13 their leverage.</p> <p>14 Q. Orlimar clubs did show up</p> <p>15 in Costco though; isn't that right?</p> <p>16 A. It might have. Not at that</p> <p>17 time, not to my knowledge. Maybe later.</p> <p>18 Q. Would it surprise you that</p> <p>19 it did show up in the fall of 1998?</p> <p>20 A. No.</p> <p>21 MR. MARA: Objection, assumes</p> <p>22 facts not in evidence.</p> <p>23 THE WITNESS: It wouldn't</p> <p>24 surprise me.</p>	<p>1 MS. REED: Let's mark it so we</p> <p>2 have a clear record.</p> <p>3 MR. MARA: Sure.</p> <p>4 (Exhibit 301, document Bate</p> <p>5 Stamped Adams 47195 to 47229, is marked</p> <p>6 for identification.)</p> <p>7 BY MS. REED:</p> <p>8 Q. I'm showing you what's been</p> <p>9 marked Exhibit 301 which is Bate Stamped</p> <p>10 Adams 47195 to 47229.</p> <p>11 A. Uh-huh.</p> <p>12 Q. Do you recognize this?</p> <p>13 A. Only as of seven o'clock</p> <p>14 last night.</p> <p>15 Q. And when you saw it,</p> <p>16 what -- what did you believe this to be?</p> <p>17 A. A concoction, as I was</p> <p>18 still one of the twelve who were fired in</p> <p>19 an RAC position throughout the country, but</p> <p>20 to -- can I answer your question a little</p> <p>21 bit more?</p> <p>22 Q. Sure.</p> <p>23 A. As the sales rep who was</p> <p>24 entirely responsible for the entire State</p>
Page 91	Page 93
<p>1 BY MS. REED:</p> <p>2 Q. Why did you leave Adams</p> <p>3 Golf?</p> <p>4 A. I was terminated.</p> <p>5 Q. Why?</p> <p>6 A. Up until yesterday, I</p> <p>7 thought one thing, when I read the files,</p> <p>8 which I had never seen, I was shocked by</p> <p>9 what I saw. There were 13 original RACs in</p> <p>10 the country. 12 of us were fired for</p> <p>11 various reasons of what have you and I</p> <p>12 found out that mine was performance based.</p> <p>13 And the paper that you're looking at right</p> <p>14 there on the top page, the first time I saw</p> <p>15 it was yesterday, and I almost had a heart</p> <p>16 attack when I read that. For someone who</p> <p>17 had no ill feelings toward this company,</p> <p>18 despite whatever I went through, any anger</p> <p>19 and hostility I might have had was actually</p> <p>20 for the first time shown last night when I</p> <p>21 got that email with that information that</p> <p>22 was just beyond believability.</p> <p>23 MR. MARA: Referring to Adam</p> <p>24 047195 which has not been marked.</p>	<p>1 of Florida, on more than one occasion I had</p> <p>2 requested from my bosses, I said I need</p> <p>3 help in the State of Florida if you want to</p> <p>4 get to the goals where you are. I said</p> <p>5 let's split up the state down the middle.</p> <p>6 I'll take S -- or east side, find someone</p> <p>7 else for the west. So they did hire</p> <p>8 someone in Tampa ultimately. And then I</p> <p>9 found out that they hired someone in the</p> <p>10 Jacksonville area. Then I found out they</p> <p>11 hired someone in the southeastern part of</p> <p>12 state, which was Fort Lauderdale, Miami,</p> <p>13 and everything else. And here I was</p> <p>14 sitting in Orlando all by myself. And</p> <p>15 ultimately they gave away my territory, so</p> <p>16 even though I'd been the one who was</p> <p>17 running this, they hired three people, and</p> <p>18 I do know that they paid them twice as much</p> <p>19 money. I was making 50, 55,000 a year.</p> <p>20 They paid these people with salary and</p> <p>21 package close to \$100,000.00 a year. And</p> <p>22 they took me and promoted me into the</p> <p>23 Marketing Department where I would go out</p> <p>24 and do demo days for the Marketing</p>

24 (Pages 90 to 93)

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TEKLITS

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

IN RE ADAMS GOLF, INC. : CONSOLIDATED  
:   
SECURITIES LITIGATION : C.A. No. 99-371 KAJ

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Wednesday, June 7, 2006  
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Oral deposition of JOSEPH D. TEKLITS, taken  
pursuant to notice, was held at the offices of  
SIMPSON, THACHER, AND BARTLETT, LLP, 425 Lexington  
Avenue, 28th Floor, New York, New York 10017,  
commencing at 10:07 a.m. on the above date, before  
Beth A. Barkocy, Certified Shorthand Reporter and  
Notary Public.

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## JOSEPH D. TEKLITS

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<p>10:20:03 1 remember?</p> <p>10:20:04 2 A. During that time, I don't remember</p> <p>10:20:15 3 specifically.</p> <p>10:20:18 4 Q You don't remember any of them?</p> <p>10:20:22 5 A. During those specific years --</p> <p>10:20:32 6 Q '97 and '98.</p> <p>10:20:34 7 A During those specific years, I don't</p> <p>10:20:37 8 recall exactly what stocks I was covering at that</p> <p>10:20:39 9 time</p> <p>10:20:39 10 Q How long were you at Ferris Baker</p> <p>10:20:43 11 Watts?</p> <p>10:20:44 12 A. Four years.</p> <p>10:20:44 13 Q If you take the whole four years, do</p> <p>10:20:47 14 you remember any other golf companies other than Adams</p> <p>10:20:51 15 Golf?</p> <p>10:20:51 16 A. Yes</p> <p>10:20:51 17 Q Which ones?</p> <p>10:20:52 18 A Callaway Golf, Ashworth, Cutter and</p> <p>10:20:59 19 Buck. Family Golf Centers, Lesco, L-e-s-c-o. That's</p> <p>10:21:17 20 all I recall.</p> <p>10:21:18 21 Q Some of those you had been analyst</p> <p>10:21:22 22 for in your job before Ferris Baker; is that right?</p> <p>10:21:26 23 A. Yes.</p> <p>10:21:26 24 Q. Did you, so to speak, bring those</p> <p>10:21:30 25 with you?</p>	<p>10:23:06 1 A Drafting of what?</p> <p>10:23:08 2 Q Drafting of the reports that you</p> <p>10:23:10 3 did.</p> <p>10:23:10 4 A. The research reports?</p> <p>10:23:11 5 Q. Yes.</p> <p>10:23:12 6 A. Yes.</p> <p>10:23:17 7 Q By 1998, were you familiar with the</p> <p>10:23:24 8 term gray marketing?</p> <p>10:23:26 9 A. Yes.</p> <p>10:23:27 10 Q What was your understanding of that?</p> <p>10:23:37 11 A. I can't recall at the time what my</p> <p>10:23:38 12 understanding of it was</p> <p>10:23:39 13 Q Why were you familiar with it at</p> <p>10:23:46 14 that point?</p> <p>10:23:46 15 A. It's pretty common in covering</p> <p>10:23:50 16 consumer brands, covered apparel brands, covered golf</p> <p>10:23:57 17 brands. It's pretty common for that term to be part</p> <p>10:24:02 18 of any discussion of a company's fundamentals.</p> <p>10:24:12 19 Q Did you know of Costco at that</p> <p>10:24:15 20 point, beginning of 1998?</p> <p>10:24:20 21 A. Yes.</p> <p>10:24:21 22 Q Did you associate Costco with gray</p> <p>10:24:24 23 marketing?</p> <p>10:24:25 24 A. I don't recall exactly.</p> <p>10:24:30 25 Q. Is it your understanding of gray</p>
Page 15	Page 17
<p>10:21:31 1 MR. McEVOY: I'll object to the</p> <p>10:21:33 2 form.</p> <p>10:21:34 3 You can answer</p> <p>10:21:39 4 THE WITNESS: I'm not clear what</p> <p>10:21:40 5 that means.</p> <p>10:21:41 6 BY MS. FOX:</p> <p>10:21:41 7 Q Why was it that if you were an</p> <p>10:21:43 8 analyst at one company, that you then became an</p> <p>10:21:47 9 analyst for the same public company when you moved?</p> <p>10:21:56 10 A My expertise. One of the areas that</p> <p>10:22:01 11 I focused on was the golf industry as an analyst at my</p> <p>10:22:09 12 previous firm, Ladenburg Thalmann, so when hired at</p> <p>10:22:13 13 Ferris Baker Watts, one of my duties was to also</p> <p>10:22:18 14 continue coverage of the golf industry.</p> <p>10:22:21 15 Q At your previous firm, had you had</p> <p>10:22:25 16 any contact with Adams Golf?</p> <p>10:22:27 17 A I can't recall</p> <p>10:22:29 18 Q Who is David Turner?</p> <p>10:22:46 19 A. My associate at Ferris Baker Watts.</p> <p>10:22:49 20 Q What was his role in this IPO?</p> <p>10:22:54 21 A. He worked for me as an associate</p> <p>10:22:57 22 research analyst, so he supported me</p> <p>10:23:00 23 Q Doing research?</p> <p>10:23:01 24 A Yes</p> <p>10:23:02 25 Q. Did he do drafting as well?</p>	<p>10:24:36 1 marketing that at the beginning when a company is</p> <p>10:24:42 2 having its goods in the gray market, that the</p> <p>10:24:45 3 company's sales will increase?</p> <p>10:24:48 4 MR. McEVOY: Object to the form.</p> <p>10:24:49 5 You can answer if you understand the</p> <p>10:24:52 6 question.</p> <p>10:24:54 7 THE WITNESS: Can you restate it?</p> <p>10:24:57 8 BY MS. FOX:</p> <p>10:24:57 9 Q. Yes. At the beginning when gray</p> <p>10:24:59 10 marketing begins, is it your understanding that sales</p> <p>10:25:06 11 of the company who is being gray-marketed will</p> <p>10:25:09 12 increase to feed the gray market?</p> <p>10:25:10 13 MR. McEVOY: I'm just going to</p> <p>10:25:12 14 object to the form again.</p> <p>10:25:13 15 You can answer if you can.</p> <p>10:25:13 16 THE WITNESS: No.</p> <p>10:25:13 17 BY MS. FOX:</p> <p>10:25:32 18 Q. What is your understanding of the</p> <p>10:25:34 19 effect, the ultimate effect, of gray marketing?</p> <p>10:25:36 20 MR. McEVOY: Object to the form.</p> <p>10:25:42 21 THE WITNESS: That somebody is</p> <p>10:25:51 22 buying a product cheaper than they could find</p> <p>10:25:54 23 it somewhere in a regular retail format.</p> <p>10:25:58 24 BY MS. FOX:</p> <p>10:25:58 25 Q. What effect will that have on the</p>

5 (Pages 14 to 17)

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WALRAVENS



1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE DISTRICT OF DELAWARE

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5   IN RE ADAMS GOLF, INC.,               : CONSOLIDATED  
6                                       :                       :  
7   SECURITIES LITIGATION               : C.A. No. 99-371 KAJ

8                                       - - - - -  
9       Friday, May 26, 2006               - - - - -

10                   Oral deposition of PATRICK D. WALRAVENS, taken  
11 pursuant to notice, was held at AKIN, GUMP, STRAUSS,  
12 HAUER & FELD, LLP, 580 California Street, San Francisco  
13 California 94104, commencing at 8:57 a.m., on the above  
14 date, before Kenneth T. Brill, Registered Professional  
15 Reporter, and California CSR #12797.

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Patrick Walravens

1 familiar with. Unauthorized distribution seems pretty  
 2 clear on the face of it.  
 3 Q. Is gray -- okay. Your MBA was -- what was the  
 4 area of concentration of your MBA?  
 5 A. I don't know there really was one. Finance.  
 6 Q. Had the term gray marketing been taught in  
 7 your MBA courses?  
 8 A. It may have been. I don't recall that term  
 9 from --  
 10 Q. Okay.  
 11 A. -- business school.  
 12 Q. Had you done any work for Costco prior to the  
 13 Adams IPO?  
 14 A. Not that I recall.  
 15 Q. Do you know whether Costen had been a client  
 16 of Cooley Godward?  
 17 A. Oh I don't know.  
 18 Q. Do you know if Lehman Brothers had done any  
 19 work for Costco prior to the Adams IPO?  
 20 A. So the question is, do I -- can you repeat it  
 21 for me?  
 22 ---  
 23 (The court reporter read back as  
 24 requested.)

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Patrick Walravens

1 this type of issue.  
 2 Q. Have you, by the way, read the transcript of  
 3 Olga Pulido's testimony?  
 4 A. I have not read the transcript. I have --  
 5 MR. McEVOY: Let me just caution you not to  
 6 discuss the substance of what we spoke about yesterday  
 7 THE WITNESS: Oh, really?  
 8 MR. McEVOY: Yeah, that is privileged  
 9 information.  
 10 THE WITNESS: All right. Well I haven't read  
 11 the transcript.  
 12 MR. McEVOY: Can we go off the record for a  
 13 second.  
 14 ---  
 15 (Discussion held off the record  
 16 from 10:47 to 10:49 a.m.)  
 17 ---  
 18 MR. McEVOY: Okay. We can go back on the  
 19 record.  
 20 BY MR. LEWIS:  
 21 Q. When if at all did you first hear of the  
 22 concept of gray marketing, unauthorized distribution or  
 23 distribution through Costco mentioned in connection with  
 24 the Adams Golf offering?

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Patrick Walravens

1 ---  
 2 THE WITNESS: Well I don't have an  
 3 independent recollection of it, but in preparing for  
 4 this process it was suggested that it had been one of  
 5 Olga's clients.  
 6 BY MR. LEWIS:  
 7 Q. Prior to the Adams IPO, had you done work for  
 8 any client that had experienced unauthorized  
 9 distribution of its products? To your knowledge, I'm  
 10 just --  
 11 A. Yeah, I know. So the question is had I done  
 12 any work for any client that experienced unauthorized  
 13 distribution of its clients -- of its products?  
 14 Q. Right.  
 15 A. That I recall I did work for Levi's.  
 16 Q. Okay.  
 17 A. I don't specifically recall that being an  
 18 issue for Levi's.  
 19 Q. But at the actual time you were working on the  
 20 Adams Golf offering, had you been aware that Levi  
 21 Strauss had had an unauthorized distribution of its  
 22 products, or was that something you heard later?  
 23 A. I don't know that I ever actually learned it.  
 24 It just seems to me that's a brand that's likely to have

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Patrick Walravens

1 MR. McEVOY: Object to form. Mentioned in  
 2 connection with the offering?  
 3 BY MR. LEWIS:  
 4 Q. All right. Let me try it -- let me break it  
 5 into several pieces.  
 6 A. Okay.  
 7 Q. When if at all did you first hear the words  
 8 gray marketing associated with Adams Golf?  
 9 A. I can't tell you when I first heard that.  
 10 Q. How did you first hear it?  
 11 A. I can't tell you that either.  
 12 Q. What did you first hear about it?  
 13 A. So apart from what I've read, right?  
 14 Independently I have two recollections of this.  
 15 Q. Okay.  
 16 A. One is a conversation with Olga at some point  
 17 when she said that she had seen a high end club in one  
 18 of these discount warehouses. Second is a conversation  
 19 with someone regarding a potential solution to the  
 20 problem being the serialization of golf clubs.  
 21 Q. Would your answer be any different if I  
 22 substituted the words "unauthorized distribution" for  
 23 "gray marketing"?  
 24 Let me ask it then, and you tell me

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18 (Pages 66 to 69)

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Patrick Walravens

1 When if at all did you first hear the term  
 2 unauthorized distribution used in connection with Adams  
 3 Golf?  
 4 A. I -- I don't recall when I heard first that.  
 5 Q. Do you recall --  
 6 A. I understand that gray marketing and  
 7 unauthorized distribution are synonymous, so --  
 8 Q. So you have no independent recollection of  
 9 anything other than the two instances that you've  
 10 already told me --  
 11 A. Correct.  
 12 Q. -- is that fair? And if I -- all right.  
 13 When if at all did you first hear that Adams  
 14 Golf products had ended up in some instances in Costco  
 15 outlets?  
 16 A. My first independent -- well, it's hard to say  
 17 what the timing is; right? So independently it's one  
 18 of those two conversations.  
 19 Q. Okay. Do you have any recollection of either  
 20 gray marketing, unauthorized distribution, or Costco  
 21 distribution coming up at the risk factors discussion in  
 22 the drafting sessions for the Adams Golf offering?  
 23 A. I don't recall that.  
 24 Q. Do you recall anyone saying in connection with

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Patrick Walravens

1 A. I don't recall the details of the drafting  
 2 sessions.  
 3 Q. In the course of the drafting sessions, do you  
 4 recall any discussion about theoretical risks of a  
 5 product getting into the gray market or unauthorized  
 6 outlets?  
 7 A. No.  
 8 Q. Are you a golfer yourself?  
 9 A. I golf occasionally.  
 10 Q. Would you agree with the proposition that when  
 11 a premium golf club ends up in a department store, it  
 12 loses its image?  
 13 MR. LEWIS: Objection, vague and ambiguous.  
 14 calls for speculation, no foundation.  
 15 MR. McEVROY: Object to form.  
 16 THE WITNESS: Can you read that back to me?  
 17 ---  
 18 (The court reporter read back as  
 19 requested.)  
 20 ---  
 21 THE WITNESS: In a department store?  
 22 BY MR. LEWIS:  
 23 Q. Well, let me broaden the question. Would you  
 24 agree that once a premium golf club ends up in either a

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Patrick Walravens

1 the drafting sessions that gray marketing or  
 2 unauthorized distribution or Costco distribution was  
 3 immaterial to Adams Golf?  
 4 MR. McEVROY: I'm going to object, just to the  
 5 extent that the witness has testified he doesn't recall  
 6 the substance of the drafting sessions, but you can  
 7 answer if you can.  
 8 MR. BESSETTE: Let me actually have the  
 9 question back, please.  
 10 ---  
 11 (The court reporter read back as  
 12 requested.)  
 13 ---  
 14 MR. BESSETTE: I'll just object to the extent  
 15 it calls for a legal conclusion.  
 16 BY MR. LEWIS:  
 17 Q. I'm here asking only if the words used in the  
 18 draftings sessions relating this subject were -- the  
 19 word "immaterial"?  
 20 A. I mean, I don't recall those conversations.  
 21 Q. Do you recall someone saying in the course of  
 22 the drafting session that distribution of Adams Golf  
 23 clubs through Costco was -- existed, but was unimportant  
 24 or sporadic?

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Patrick Walravens

1 department store or a discount outlet, that it loses its  
 2 image?  
 3 MR. BESSETTE: Same objection.  
 4 MR. McEVROY: Same objection too.  
 5 THE WITNESS: I think it depends.  
 6 BY MR. LEWIS:  
 7 Q. Depends on what?  
 8 A. We're -- let me put it this way, can you give  
 9 me a more specific question to answer?  
 10 Q. Well, let me move on from that for a moment.  
 11 A. Okay.  
 12 Q. Did you ever hear anyone express the view that  
 13 once a premium golf club ends up being distributed at a  
 14 discount price, it tends to lose its image?  
 15 MR. McEVROY: Objection. Are you talking in  
 16 connection with Adams Golf now?  
 17 BY MR. LEWIS:  
 18 Q. As a general proposition.  
 19 A. Well, I certainly heard it in preparing for  
 20 this deposition.  
 21 Q. During the due diligence and drafting process  
 22 for the Adams offering, did you ever hear someone talk  
 23 about the risks of unauthorized distribution versus the  
 24 impact of unauthorized distribution?

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WALSH

PATTY WALSH

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

IN RE: ADAMS GOLF, INC. : CONSOLIDATED  
SECURITIES LITIGATION : C.A. NO. 99-371 KAJ  
\_\_\_\_\_X

ORAL DEPOSITION OF PATTY WALSH

Thursday, May 11, 2006

The oral deposition of Patty Walsh was held at the law offices of Akin Gump Strauss Hauer & Feld, LLP, 1700 Pacific Avenue, Suite 4100, Dallas, Texas, from 9:41 a.m. to 4:18 p.m., before Jamie K. Israelow, a Certified Shorthand Reporter in and for the State of Texas, Registered Professional Reporter, Certified Realtime Reporter and Certified LiveNote Reporter.

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<p>13:36:51 1 MS. FOX: Sure.</p> <p>13:36:51 2 (An off-the-record discussion</p> <p>14:16:16 3 was held from 1:36 to 2:16.)</p> <p>14:16:17 4 MS. FOX: Okay. Back on the</p> <p>14:16:17 5 record</p> <p>14:16:19 6 Q (By Ms. Fox) Exhibit 57 is an</p> <p>14:16:22 7 August 14th memo from Barney Adams to Mark</p> <p>14:16:29 8 Gonsalves and Ric Jarrett. And I see you've had a</p> <p>14:16:32 9 chance to review it.</p> <p>14:16:33 10 First of all, you've just</p> <p>14:16:35 11 taken a, what, 15- or 20-minute break with your</p> <p>14:16:39 12 lawyers. Did you discuss this memo?</p> <p>14:16:45 13 A No.</p> <p>14:16:45 14 Q And you've had a chance to read it.</p> <p>14:16:47 15 Did you see this memo at the time it was written?</p> <p>14:16:50 16 A No.</p> <p>14:16:50 17 Q You've never seen it before?</p> <p>14:16:56 18 A No.</p> <p>14:16:57 19 Q All right. You're sure?</p> <p>14:17:01 20 A Yes. I can keep reading.</p> <p>14:17:01 21 (Deposition Exhibit 101</p> <p>14:17:01 22 was marked.)</p> <p>14:17:49 23 Q (By Ms. Fox) You don't have to review</p> <p>14:17:51 24 this all.</p>	<p>14:19:55 1 regarding our earnings outlook.</p> <p>14:20:01 2 Q Do you remember discussions of what</p> <p>14:20:03 3 you would say in this news release?</p> <p>14:20:06 4 A I don't remember specific</p> <p>14:20:08 5 discussions. I know this was another release that</p> <p>14:20:10 6 went through the committee we talked about before.</p> <p>14:20:20 7 Q It says: The company intends to</p> <p>14:20:22 8 report actual third quarter results on or about</p> <p>14:20:25 9 October 22nd.</p> <p>14:20:43 10 But you don't remember</p> <p>14:20:45 11 anything specific about it?</p> <p>14:20:47 12 A No, I don't.</p> <p>14:20:53 13 Q By that time, were you aware of the</p> <p>14:20:57 14 renewal of the gray-market issue, by</p> <p>14:21:01 15 September 28th?</p> <p>14:21:01 16 MS. BRANNEN: Objection,</p> <p>14:21:10 17 vague.</p> <p>14:21:10 18 A I don't -- I don't know. I don't</p> <p>14:21:13 19 know timing.</p> <p>14:21:20 20 MS. FOX: I do not have three</p> <p>14:21:22 21 copies of this -- well, maybe I do. Yes, I do.</p> <p>14:21:30 22 Can we go off the record?</p> <p>14:21:30 23 (An off-the-record discussion</p> <p>14:23:30 24 was held from 2:21 to 2:23.)</p>
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<p>14:18:08 1 Exhibit 101 is one of these</p> <p>14:18:16 2 ratings things from Montgomery Securities dated</p> <p>14:18:22 3 September 25th, 1998. Did you see this when it</p> <p>14:18:30 4 arrived?</p> <p>14:18:31 5 A I'm sure I would have seen it at --</p> <p>14:18:34 6 at around that time, yes.</p> <p>14:18:36 7 Q Where it says on the front:</p> <p>14:18:41 8 Montgomery Securities, is that your handwriting?</p> <p>14:18:42 9 Does this come from your file?</p> <p>14:18:43 10 A No.</p> <p>14:18:43 11 Q Do you know whose handwriting it is,</p> <p>14:18:46 12 by any chance?</p> <p>14:18:46 13 A I don't.</p> <p>14:19:24 14 Q All right.</p> <p>14:19:24 15 MS. FOX: What's the number?</p> <p>14:19:27 16 THE REPORTER: 102</p> <p>14:19:27 17 (Deposition Exhibit 102</p> <p>14:19:29 18 was marked.)</p> <p>14:19:29 19 MS. FOX: Exhibit 102 is a</p> <p>14:19:32 20 news release with Patty Walsh's name on it for</p> <p>14:19:38 21 September 28th, 1998.</p> <p>14:19:48 22 Q (By Ms. Fox) What -- can you</p> <p>14:19:49 23 identify this?</p> <p>14:19:53 24 A It's a news release that we issued</p>	<p>14:23:30 1 (Deposition Exhibit 103</p> <p>14:23:30 2 was marked.)</p> <p>14:23:49 3 MS. FOX: Exhibit 103 is a fax</p> <p>14:23:54 4 to Barney Adams and Darl Hatfield from Pat</p> <p>14:24:00 5 Walravens. It appears to contain four pages of</p> <p>14:24:06 6 numbers, 4482 -- Adams 4482 to Adams 4485.</p> <p>14:24:17 7 Q (By Ms. Fox) Take a look at the</p> <p>14:24:18 8 front. It says: For your information, Adams is</p> <p>14:24:21 9 still strong on course.</p> <p>14:24:24 10 Do you know what that refers</p> <p>14:24:36 11 to?</p> <p>14:24:36 12 A Yes, this is a market share report</p> <p>14:24:38 13 from Golf Data Tech that reports on industry</p> <p>14:24:46 14 sell-through or consumer purchases.</p> <p>14:25:01 15 Q And can you, then, explain the</p> <p>14:25:04 16 numbers -- if we look at Adams, September, 3.1,</p> <p>14:25:11 17 August, 13.4. What -- what are those?</p> <p>14:25:14 18 A That represents our share of those</p> <p>14:25:18 19 sales as reported by Data Tech versus other</p> <p>14:25:24 20 competitors.</p> <p>14:25:24 21 Q And these are woods. What does woods</p> <p>14:25:31 22 include?</p> <p>14:25:31 23 A It includes fairway woods and</p> <p>14:25:33 24 drivers.</p>

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<p>14:25:33 1 Q And drivers.  14:25:34 2 So even though Adams at this  14:25:36 3 point didn't have a driver, that would be included  14:25:39 4 with the drivers?  14:25:56 5 A Correct.  14:25:56 6 Q And at this point, if we look at  14:25:59 7 Orlimar, it was way, way behind.  14:26:03 8 MS. BRANNEN: Objection --  14:26:06 9 MS. FOX: Hold on. She can  14:26:07 10 look at Orlimar. Is that right?  14:26:09 11 MS. BRANNEN: It calls --  14:26:10 12 you're characterizing a document.  14:26:12 13 MS. FOX: Well, I can  14:26:13 14 characterize it. It's cross-examination.  14:26:16 15 MS. BRANNEN: It calls for  14:26:17 16 expert testimony and assumes facts not in  14:26:19 17 evidence.  14:26:20 18 Q (By Ms. Fox) Take a look at the  14:26:21 19 Orlimar. Do you see Orlimar?  14:26:29 20 A Yes. I'm sorry. Yes.  14:26:30 21 Q And their total as of August here is  14:26:32 22 3 6 percent?  14:26:34 23 A Correct.  14:26:34 24 Q And Adams's total for the same period</p>	<p>14:28:33 1 has.  14:28:34 2 MS. REED: Exhibit 80.  14:28:35 3 MS. FOX: 80?  14:28:37 4 MS. REED: Exhibit 80.  14:29:20 5 MS. FOX: Exhibit 80 is the  14:29:23 6 October 8th, 1998, re: Fourth quarter. It's a  14:29:28 7 memo from Barney Adams to -- it looks like most of  14:29:33 8 the board members.  14:29:34 9 Q (By Ms. Fox) Have you seen this  14:29:35 10 before?  14:29:35 11 A I don't think so. I don't remember  14:29:39 12 it.  14:29:40 13 Q Do you remember discussions at that  14:29:41 14 particular time, October 8th, about "Costco  14:29:51 15 hurting us badly"?  14:29:51 16 A I don't remember that.  14:29:59 17 Q Did you usually get this kind of memo  14:30:02 18 Barney sent to the board?  14:30:09 19 A No.  14:30:21 20 MS. FOX: This is 56.  14:30:31 21 MS. BRANNEN: Off the record  14:30:33 22 for just a second.  14:30:33 23 (An off-the-record discussion  14:30:49 24 was held from 2:30 to 2:30.)</p>
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<p>14:26:38 1 is 13.4?  14:26:43 2 A Correct.  14:26:44 3 Q But Adams has gone down slightly from  14:26:47 4 July; Orlimar has gone up a point from July, a  14:26:51 5 point, point 1. Is that what this means?  14:26:58 6 A Yes.  14:26:58 7 Q Was that something that was watched  14:27:00 8 carefully by the people at Adams Golf?  14:27:07 9 A The -- the relationship with  14:27:10 10 Orlimar --  14:27:10 11 Q Or --  14:27:11 12 A -- or the market share reports?  14:27:13 13 Q The market share.  14:27:15 14 A Yes. However, they would come out  14:27:18 15 much later than the period for which they were  14:27:25 16 reporting.  14:27:25 17 Q Right. This came out on Friday,  14:27:27 18 October 2nd, and the last period report is August?  14:27:33 19 A August, right.  14:28:28 20 Q Okay.  14:28:29 21 MS. FOX: I don't think this  14:28:29 22 has been marked.  14:28:30 23 MS. REED: Uh-huh.  14:28:31 24 MS. BRANNEN: She thinks it</p>	<p>14:30:49 1 MS. FOX: Exhibit 56 is a memo  14:30:52 2 from Barney Adams, again to the board, October  14:30:55 3 13th, re: Fourth quarter.  14:30:57 4 Q (By Ms. Fox) Do you remember seeing  14:30:58 5 this one?  14:31:02 6 A I don't remember it.  14:31:17 7 Q Okay. Do you remember if --  14:31:19 8 discussion of any of the topics mentioned in it at  14:31:22 9 about that time, October 13th?  14:31:42 10 A I would have known about A and B.  14:31:51 11 Q Okay. But you didn't know about the  14:31:53 12 terrible golf market, Costco competition?  14:31:57 13 A I don't recall what I knew --  14:32:00 14 Q At that point?  14:32:01 15 A -- with respect to that.  14:32:11 16 MS. FOX: Oh, I think this has  14:32:12 17 been marked, too, Michelle. This is the special  14:32:16 18 board meeting, October 19th.  14:32:29 19 MS. REED: This is Exhibit 81.  14:32:31 20 MS. FOX: 81. This is a board  14:32:31 21 meeting.  14:32:38 22 Exhibit 81 is the  14:32:41 23 October 19th, 1998 minutes of the special meeting  14:32:43 24 of the board of directors, Adams Golf, and it</p>

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## PATTY WALSH

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<p>14:32:46 1 lists Patty Walsh, director investor relations as  14:32:51 2 participating in the meeting at the invitation of  14:32:54 3 the board of directors.  14:32:58 4 Q (By Ms. Fox) Do you remember this  14:33:00 5 meeting?  14:33:00 6 A No.  14:33:00 7 Q You don't. You truly do not  14:33:09 8 remember --  14:33:09 9 A Eight years.  14:33:10 10 Q I know. Okay.  14:33:51 11 MS. FOX: Tell you what --  14:33:52 12 what's the next exhibit number?  14:33:54 13 THE REPORTER: 104.  14:33:54 14 (Deposition Exhibit 104  14:34:23 15 was marked.)  14:34:23 16 MS. FOX: Exhibit 104 is a  14:34:25 17 handwritten document, appears to be notes taken  14:34:28 18 from the special board meeting of October 19th.  14:34:37 19 Q (By Ms. Fox) Patty, is this your  14:34:39 20 handwriting?  14:34:39 21 A Yes, it is. Oh, I should have  14:34:43 22 remembered this meeting.  14:34:53 23 Q Okay. Your handwriting is pretty  14:34:54 24 good. It's pretty easy to read, but I just have a</p>	<p>14:35:58 1 Q Do you remember the discussion about  14:36:01 2 that?  14:36:04 3 A No, I don't.  14:36:05 4 Q And then it's Q4 costs up. Is that  14:36:09 5 what that --  14:36:11 6 A Yes.  14:36:12 7 Q New TL infomercial. TL is Tight  14:36:16 8 Lies?  14:36:16 9 A Tight Lies.  14:36:17 10 Q Creative/ -- what's that next word?  14:36:27 11 A Production, I think.  14:36:28 12 Q What does that refer to? Do you  14:36:38 13 know?  14:36:40 14 A Advertising information, I think,  14:36:42 15 related to the infomercial.  14:36:45 16 Q In other words, it's one of the  14:36:46 17 reasons the --  14:36:46 18 A Creative.  14:36:49 19 Q -- costs are up?  14:36:49 20 A Yes, the cost to create.  14:36:51 21 Q And the bag promotion would be  14:36:53 22 another reason that the costs were up?  14:36:54 23 A Right.  14:36:55 24 Q And the last one, is it variables?</p>
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<p>14:34:57 1 few questions.  14:34:58 2 A Okay.  14:34:58 3 Q LB is Lehman Brothers at the top?  14:35:01 4 A Yes.  14:35:01 5 Q FBW, Ferris, Baker Watts?  14:35:05 6 A Correct.  14:35:05 7 Q And those numbers underneath, what  14:35:07 8 are they?  14:35:07 9 A They're -- I believe they're  14:35:09 10 estimates for our fourth quarter.  14:35:10 11 Q And then the numbers underneath,  14:35:14 12 19 cents, 14 cents, that would be --  14:35:17 13 A Earnings estimates, I believe  14:35:18 14 Q Earnings per share?  14:35:19 15 A Yes.  14:35:24 16 Q Okay. Reduction in sales, 43.1  14:35:26 17 What would that mean? Is that actually point 1?  14:35:35 18 A No. It's 43 percent.  14:35:42 19 Q Okay. And selling in royalty expense  14:35:45 20 something 9 percent?  14:35:45 21 A Selling in royalty expense up  14:35:52 22 9 percent.  14:35:52 23 Q And so reduction in sales would be --  14:35:57 24 A 43 percent.</p>	<p>14:36:57 1 A Variable.  14:36:59 2 Q Oh. Is that a new topic?  14:37:00 3 A Correct. It looks like it, yes.  14:37:08 4 Q Okay. Royalties, pharmacists,  14:37:08 5 commissions.  14:37:13 6 Incentive, what's that?  14:37:15 7 A Incentive pay.  14:37:21 8 Q And then the next, is that --  14:37:22 9 MS. REED: I think -- were you  14:37:23 10 just asking her what that next word --  14:37:26 11 A Oh, manager, from the manager level  14:37:28 12 on up.  14:37:30 13 Q (By Ms. Fox) Okay. Discretionary.  14:37:30 14 And then what are those two  14:37:33 15 little words? It looks like basil.  14:37:36 16 A Basic -- glass. Basic.  14:37:42 17 Q M-E-L?  14:37:43 18 A It looks like something members,  14:37:45 19 but --  14:37:46 20 MS. BRANNEN: I think it might  14:37:47 21 be cut off.  14:37:48 22 THE WITNESS: Yeah, I think it  14:37:48 23 might be cut off.  14:37:54 24 MS. BRANNEN: It's hard to</p>

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<p>16:02:36 1 designs, manufacturers premium --</p> <p>16:02:42 2 Did you -- was there a press</p> <p>16:02:47 3 release when this case was originally dismissed?</p> <p>16:02:52 4 Do you remember?</p> <p>16:02:55 5 A I suspect there may have been I</p> <p>16:02:56 6 don't recall it specifically. I'd have to look in</p> <p>16:02:58 7 my records.</p> <p>16:03:00 8 Q And then after the appeal, when the</p> <p>16:03:05 9 case was partially reinstated, was there a press</p> <p>16:03:08 10 release about that?</p> <p>16:03:10 11 A I don't recall.</p> <p>16:03:15 12 Q Do you remember when that --</p> <p>16:03:16 13 A We would -- we would address legal</p> <p>16:03:19 14 matters in our SEC filings.</p> <p>16:03:24 15 Q But you -- but you don't remember a</p> <p>16:03:27 16 public press release about that?</p> <p>16:03:36 17 A I don't -- I don't recall.</p> <p>16:03:38 18 Q Can you tell me why you would have a</p> <p>16:03:42 19 release about a dismissal of a case, but nothing</p> <p>16:03:44 20 about a --</p> <p>16:03:45 21 MS BRANNEN: Objection. I</p> <p>16:03:46 22 think that mischaracterizes prior testimony. I</p> <p>16:03:49 23 think she said she didn't recall if there was one</p> <p>16:03:52 24 about the dismissal of the case.</p>	<p>16:04:45 1 MS. BRANNEN: Yes. Just a few</p> <p>16:04:45 2 questions.</p> <p>16:04:45 3 EXAMINATION</p> <p>16:04:45 4 BY MS. BRANNEN:</p> <p>16:04:46 5 Q Patty, earlier I believe you</p> <p>16:04:52 6 testified that Patrick Walravens would have known</p> <p>16:04:56 7 about gray marketing and the Costco issue because</p> <p>16:05:03 8 it was discussed before the IPO.</p> <p>16:05:05 9 A Yes.</p> <p>16:05:05 10 Q Is that right?</p> <p>16:05:05 11 A Yes.</p> <p>16:05:06 12 Q What do you remember about any</p> <p>16:05:09 13 discussion that Mr. Walravens or anybody else</p> <p>16:05:10 14 would have been involved in that -- that you know</p> <p>16:05:16 15 about?</p> <p>16:05:16 16 A I remember in at least one instance</p> <p>16:05:22 17 at a drafting session discussing that -- the whole</p> <p>16:05:27 18 group of attendees discussed the gray-market</p> <p>16:05:36 19 issue, you know, in a fact-finding way</p> <p>16:05:39 20 Q Do you recall who attended that</p> <p>16:05:42 21 drafting session?</p> <p>16:05:44 22 A There were quite a few people from</p> <p>16:05:49 23 Adams I guess, Mark Gonsalves, Dallas Rainwater,</p> <p>16:05:58 24 Darl Hatfield. Then the underwriters, it was</p>
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<p>16:03:53 1 MS. FOX: I think she said she</p> <p>16:03:54 2 thought there were.</p> <p>16:03:55 3 MS. BRANNEN: Can you read</p> <p>16:03:55 4 back her testimony?</p> <p>16:03:56 5 MS. FOX: I believe there was,</p> <p>16:03:57 6 but I -- I don't have it here.</p> <p>16:04:02 7 Q (By Ms. Fox) Do you remember it</p> <p>16:04:03 8 specifically at all?</p> <p>16:04:04 9 A I don't remember it specifically.</p> <p>16:04:15 10 Q Okay Is there any policy within the</p> <p>16:04:17 11 company of what you would do a press release on</p> <p>16:04:20 12 and what you wouldn't?</p> <p>16:04:22 13 A No</p> <p>16:04:23 14 Q So that would be a judgment that</p> <p>16:04:24 15 would be made between what?</p> <p>16:04:26 16 A The committee.</p> <p>16:04:28 17 Q You, Barney, Darl, whatever lawyers</p> <p>16:04:32 18 were hanging around?</p> <p>16:04:40 19 A Yes.</p> <p>16:04:41 20 Q Okay.</p> <p>16:04:41 21 MS. FOX: I think that's all</p> <p>16:04:42 22 the questions I have</p> <p>16:04:43 23 Do you have anything on</p> <p>16:04:44 24 redirect?</p>	<p>16:06:09 1 Patrick. I don't remember if Olga was there or</p> <p>16:06:11 2 not that day. I believe she was. And</p> <p>16:06:17 3 representatives from both of the other two firms.</p> <p>16:06:20 4 I just can't remember their names.</p> <p>16:06:22 5 Q By firms, you mean the law firms?</p> <p>16:06:24 6 A I'm sorry. Ferris, Baker Watts and</p> <p>16:06:28 7 NationsBanc Montgomery, as well as legal counsel</p> <p>16:06:30 8 for one or both of -- or all three of those. It</p> <p>16:06:34 9 was a full room.</p> <p>16:06:37 10 Q Okay. Do you remember the substance</p> <p>16:06:39 11 of those discussions or that discussion, I guess?</p> <p>16:06:43 12 A No, not -- I don't remember the</p> <p>16:06:45 13 specifics. Just --</p> <p>16:06:47 14 Q Do you remember when this drafting</p> <p>16:06:50 15 session occurred?</p> <p>16:06:53 16 A There were quite a number of drafting</p> <p>16:06:56 17 sessions, so I -- I'm not sure about the timing.</p> <p>16:07:01 18 Q Were the company's lawyers at this</p> <p>16:07:04 19 drafting session?</p> <p>16:07:06 20 A Yes.</p> <p>16:07:07 21 Q Why would gray marketing have come</p> <p>16:07:09 22 up? Why would it have been discussed?</p> <p>16:07:12 23 A Everything else did. We talked about</p> <p>16:07:16 24 everything with respect to the company, large and</p>

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<p>16:07:19 1 small, so it was just a part of the whole process</p> <p>16:07:23 2 Q Okay.</p> <p>16:07:23 3 MS. BRANNEN: That's all the</p> <p>16:07:24 4 questions I have at this time.</p> <p>16:07:27 5 MS. FOX: Just to clarify.</p> <p>16:07:27 6 FURTHER EXAMINATION</p> <p>16:07:28 7 BY MS. FOX:</p> <p>16:07:29 8 Q This is a drafting session for the</p> <p>16:07:32 9 prospectus?</p> <p>16:07:38 10 A Correct.</p> <p>16:07:38 11 Q You didn't know the exact date, but</p> <p>16:07:40 12 can you give me a month? Was it early, like in</p> <p>16:07:42 13 April or May, or was it later, in June?</p> <p>16:07:47 14 A I would say it was somewhere in the</p> <p>16:07:51 15 middle. I would. I --</p> <p>16:07:52 16 Q Why do you happen to remember that?</p> <p>16:07:58 17 A Because I can -- I can just pic -- I</p> <p>16:08:02 18 can picture that room -- those people in</p> <p>16:08:06 19 attendance. It may have been the first one I was</p> <p>16:08:10 20 in. It may have been the second. That's --</p> <p>16:08:13 21 that's why I'm a little conflicted about the</p> <p>16:08:17 22 timing</p> <p>16:08:18 23 Q Who was Dallas Rainwater?</p> <p>16:08:23 24 A He was -- I believe his title was</p>	<p>(Deposition Exhibit 148A</p> <p>was marked.)</p> <p>MS. FOX: Okay. Back on the</p> <p>record.</p> <p>We've discovered that one of</p> <p>the e-mails to investors was missing from the</p> <p>marked pile, and so we have marked it as 148A, a</p> <p>question from Todd Tonore and a response, and this</p> <p>is Adams 003644 and 3645.</p> <p>(Off the record at 4:18 p.m.)</p> <p>-----</p>
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<p>16:08:25 1 controller.</p> <p>16:08:26 2 Q He was a money person?</p> <p>16:08:27 3 A Correct.</p> <p>16:08:27 4 Q Who -- he reported to --</p> <p>16:08:29 5 A Jim Farrell.</p> <p>16:08:34 6 Q Okay. Do you know who brought it up</p> <p>16:08:38 7 at the meeting?</p> <p>16:08:39 8 A I don't remember the specifics.</p> <p>16:08:45 9 Q Do you know if it was before or after</p> <p>16:08:48 10 the press release and the lawsuit against Costco?</p> <p>16:08:52 11 A I don't know</p> <p>16:08:58 12 Q Are there minutes to those meetings?</p> <p>16:09:00 13 A To the drafting sessions? I don't</p> <p>16:09:02 14 believe so, no.</p> <p>16:09:07 15 Q Did anyone write anything down about</p> <p>16:09:10 16 that? Do you know?</p> <p>16:09:15 17 A I don't know. I didn't.</p> <p>16:09:22 18 MS. FOX: Okay. That's all</p> <p>16:09:23 19 the questions I have.</p> <p>16:09:26 20 THE WITNESS: Okay</p> <p>16:09:27 21 MS. BRANNEN: I think we're</p> <p>16:09:28 22 done as well</p> <p>16:09:28 23 (Off the record from</p> <p>16:09:28 24 4:09 to 4:17.)</p>	<p>1 STATE OF TEXAS X</p> <p>2 COUNTY OF DALLAS X</p> <p>3</p> <p>4 I, Jamie K Israelow, a</p> <p>5 Certified Shorthand Reporter duly commissioned and</p> <p>6 qualified in and for the State of Texas,</p> <p>7 Registered Professional Reporter, Certified</p> <p>8 Realtime Reporter and Certified LiveNote Reporter,</p> <p>9 do hereby certify that there came before me on the</p> <p>10 11th day of May at Akin Gump Strauss Hauer &amp; Feld,</p> <p>11 LLP located at 1700 Pacific Avenue, Suite 4100, in</p> <p>12 the city of Dallas, County of Dallas, State of</p> <p>13 Texas, the following named person, to-wit: PATTY</p> <p>14 WALSH, who was duly sworn to testify the truth,</p> <p>15 the whole truth, and nothing but the truth of</p> <p>16 knowledge touching and concerning the matters in</p> <p>17 controversy in this cause; and that she was</p> <p>18 thereupon examined upon oath and her examination</p> <p>19 reduced to typewriting under my supervision; that</p> <p>20 the deposition is a true record of the testimony</p> <p>21 given by the witness, and signature of the witness</p> <p>22 is to be before any notary public and returned</p> <p>23 within 30 days from date of receipt of transcript.</p> <p>24 I further certify that</p>

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WASHBURN

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

IN RE: ADAMS GOLF, INC. : CONSOLIDATED  
SECURITIES LITIGATION : C.A. NO. 99-371 KAJ  
\_\_\_\_\_ X

ORAL DEPOSITION OF J. DAVID WASHBURN

Tuesday, August 16, 2006

The oral deposition of J. DAVID WASHBURN was held at the law offices of Akin Gump Strauss Hauer & Feld, LLP, 1700 Pacific Avenue, Suite 4100, Dallas, Texas, from 10:03 a.m. to 12:28 p.m., before Jamie K. Israelow, a Certified Shorthand Reporter in and for the State of Texas, Registered Professional Reporter, Certified Realtime Reporter and Certified LiveNote Reporter.

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<p>11:10:10 1 Number 2 for the registration statement signed  11:10:13 2 electronically by Joe Hoffman.  11:10:19 3 Q With at least a copy to you?  11:10:20 4 A Yes.  11:10:20 5 Q And also copies to Hatfield, Ferrell,  11:10:25 6 Guernsey, and Smith. Who were Guernsey and Smith?  11:10:28 7 A Karyn Smith was an attorney with  11:10:33 8 Cooley. I don't remember Ken Guernsey. He too  11:10:37 9 could have been an attorney with Cooley  11:10:46 10 Q Is this the actual letter that went  11:10:47 11 to the SEC?  11:10:48 12 A There is no actual letter that went  11:10:50 13 to the SEC.  11:10:53 14 Q Because it was electronic?  11:10:56 15 A Right  11:10:56 16 Q Is this what would have been  11:10:59 17 electronically conveyed to the SEC?  11:10:59 18 A It seems to be  11:11:04 19 Q Along with the amendment?  11:11:06 20 A It seems to be  11:11:12 21 Q And in this letter, there is no  11:11:17 22 Comment 4. Do you know why?  11:11:19 23 A I have no recollection as to why  11:11:23 24 there is no Comment 4.</p>	<p>11:13:00 1 Q -- responses to them?  11:13:03 2 A No specific recollection of any such  11:13:04 3 conversations. I'm confident they occurred, I'm  11:13:09 4 confident that they -- the comments were analyzed  11:13:14 5 and discussed. I'm confident that we articulated  11:13:19 6 the appropriate standard of materiality to the  11:13:21 7 company, and I am confident that they had made  11:13:24 8 their decision.  11:13:25 9 Q But you can't say who it was at the  11:13:27 10 company that made a decision or --  11:13:29 11 A I cannot.  11:13:29 12 Q -- anything of that sort?  11:13:31 13 A I cannot.  11:13:31 14 Q Could you make a decision on behalf  11:13:33 15 of the company, or is that something the company  11:13:35 16 had to make a decision on?  11:13:38 17 A Absolutely not. Law firms, including  11:13:43 18 our own, have no business making materiality  11:13:46 19 assessments.  11:13:47 20 Q So that would be completely a company  11:13:50 21 assessment?  11:13:50 22 A Yes. Our role is to articulate the  11:13:53 23 appropriate standard. The company is aware of the  11:13:56 24 universe of facts that must be applied to that</p>
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<p>11:11:32 1 Q Ordinarily, if you got a comment from  11:11:35 2 the SEC, would you, in your letter responding to  11:11:39 3 it, list a comment and list an answer to it?  11:11:41 4 A Not necessarily.  11:11:42 5 To the extent that we received  11:11:44 6 comments from the SEC, either in writing or  11:11:47 7 orally, it would be our invariable practice to  11:11:50 8 ensure that that comment is cleared one way or the  11:12:00 9 other.  11:12:00 10 Q And so in this case, apparently the  11:12:05 11 comment was cleared orally with the SEC and never  11:12:08 12 put into writing?  11:12:16 13 A The comment -- there is no doubt in  11:12:18 14 my mind that the comment was cleared when we  11:12:21 15 submitted the regis- -- the amendment to the  11:12:25 16 registration statement.  11:12:26 17 Q But you don't remember any of the  11:12:29 18 conversation that cleared it?  11:12:42 19 A No  11:12:42 20 Q And do you remember any discussions  11:12:44 21 at all with any of the other parties, KPMG, the  11:12:48 22 underwriters, underwriters' counsel, Adams about  11:12:52 23 this sequence of -- of comments and --  11:13:00 24 A No.</p>	<p>11:13:58 1 standard. So ultimately the decision is theirs,  11:14:08 2 yes.  11:14:08 3 Q And did -- was this a decision that  11:14:14 4 the lawsuit, that is, the bill of discovery, was  11:14:18 5 not material?  11:14:20 6 MR. RYAN: Objection, form  11:14:26 7 A I think you're drawing a distinction  11:14:30 8 that I'm incapable of drawing  11:14:33 9 Q (By Ms Fox) The bill of discovery  11:14:37 10 was -- never went anywhere. Eventually Adams Golf  11:14:42 11 dismissed it, so it was not material, it was just  11:14:53 12 a gesture as it were.  11:14:53 13 Is that the determination that  11:14:53 14 the company made?  11:14:53 15 MS BRANNEN: Objection, form  11:14:54 16 A I would answer it this way: The fact  11:14:57 17 that a lawsuit was filed will necessarily mean  11:15:04 18 that that matter is something that we'll discuss  11:15:10 19 with a client, is necessarily something that we  11:15:15 20 will insist that the client assess, was something  11:15:19 21 that the underwriters and the underwriters'  11:15:23 22 counsel necessarily require that the company  11:15:23 23 assess  11:15:26 24 But it does not mean that the</p>

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